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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,429	01/21/2004	Heng-Chuan Wang	09405.0001-00000	5189

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP  
901 NEW YORK AVENUE, NW  
WASHINGTON, DC 20001-4413

EXAMINER

AFREMOVA, VERA

ART UNIT PAPER NUMBER

1651

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/762,429	Applicant(s) WANG ET AL.	
	Examiner Vera Afremova	Art Unit 1651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-57 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Claims 1-57 are pending and subject to restriction requirement.

#### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-17, 19, 48 and 49, drawn to a flocculant preparation comprising *Bacillus* bacteria, classified in class 424, subclass 93.46, for example.
- II. Claims 18, drawn to a flocculant preparation comprising a precipitate separated from a culture of *Bacillus* bacteria, classified in class 424, subclass 115, for example.
- III. Claims 20-25, drawn to a flocculant comprising a soybean protein, classified in class 424, subclass 757, for example.
- IV. Claim(s) 26, drawn to a flocculation agent with ferric chloride, classified in class 210, subclass 749, for example.
- V. Claim(s) 27, drawn to a flocculation agent with aluminum chloride, classified in class 210, subclass 749, for example.
- VI. Claims 28-36, drawn to a method of making a flocculant preparation comprising a precipitate separated from a culture *Bacillus* bacteria, classified in class 435, subclass 170, for example.
- VII. Claims 37-44, drawn to a method of making a powdered flocculant preparation comprising *Bacillus* bacterial cells, classified in class 435, subclass 41+, for example.

- VIII. Claim(s) 45, drawn to a first method of culturing *Bacillus* bacteria in a liquid medium, classified in class 435, subclass 252.31, for example.
- IX. Claims 46, 47, 50-53, drawn to a method of using a flocculant preparation comprising *Bacillus* bacterial cells for treating water, classified in class 435, subclass 262, for example.
- X. Claims 54-56, drawn to a method of using a flocculant preparation comprising a soybean protein for treating water, classified in class 210, subclass 749, for example.
- XI. Claim(s) 57, drawn to a second method of culturing or activating *Bacillus* bacteria on a solidified agar medium, classified in class 435, subclass 252.31, for example.

The inventions are distinct, each from the other because of the following reasons:

The Inventions I through V are different products as claimed that are bacterial cells, products separated from bacterial cells, plant extracts and chemical compounds.

The Inventions VI through XI are different methods as claimed and they comprise different active steps and results in different products and different effects as claimed.

Inventions related as process of making and product made are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, flocculant preparations as claimed are made by different processes of making as claimed.

Inventions related as product and process of use are distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with

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another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the processes of water treatment can be practiced with bacterial cells, with separated bacterial products and with soybean plant proteins or with different products as claimed. Moreover, in the instant case, the cells of Bacillus bacteria and the products separated from Bacillus bacteria can be used in a materially different process, for example: for inhibiting microbial growth as disclosed by US 6,723,326.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for one group is not required for the other groups, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vera Afremova whose telephone number is (571) 272-0914. The examiner can normally be reached from Monday to Friday from 9.30 am to 6.00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached at (571) 272-0926.

The fax phone number for the TC 1600 where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology center 1600, telephone number is (571) 272-1600.

Vera Afremova

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December 15, 2005

A handwritten signature in black ink, appearing to read 'V. Afremova', with a stylized, flowing script.

VERA AFREMOVA

PRIMARY EXAMINER